

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION Nos.3793, 3908 and 3909 of 2019

COMMON ORDER:

Challenge in these writ petitions is to the notices dated 04.12.2018 and 23.02.2019 of the Panchayat Secretary Grade-I, Maheswaram Village and Mandal. By the notice dated 04.12.2018, the Panchayat Secretary Grade-I rejected the building permission application of the petitioners and by the notice dated 23.02.2019, he directed removal of the dabbas (metal structures) erected by the petitioners. The exercise undertaken by the Panchayat Secretary was pursuant to the order dated 29.10.2018 passed in W.P.No.38137 of 2018. By the said order, it was directed as under:

'8. The proceedings/memos dated 01.09.2018 and 06.10.2018 are set aside. As per the Telangana State Panchayat Raj Act, 2018 and the rules made from time to time, the Gram Panchayat is the competent authority. The Panchayat Secretary of the Gram Panchayat is directed to verify the record with reference to the status of land, occupation of the land by the petitioners, establishment of Dabbas, carrying on their business without permission and payment of taxes to the Gram Panchayat and if the Panchayat Secretary finds any infirmity in all these aspects or in any of them, he shall cause notice to them by specifying the infirmities, call for their objections and place the matter before Gram Panchayat. After due consideration, Gram Panchayat shall pass orders by assigning due reasons in support of its decision.

9. With reference to the building permissions, learned counsel for the petitioners fairly submits that as proper applications were not made, petitioners would submit fresh applications for grant of building permissions. If that is so, the Gram Panchayat shall process the applications of the petitioners for grant of building permissions in accordance with the rules governing the building permissions as and when such applications are made and shall take decision within two weeks from the date of receipt of such applications. If the Panchayat Secretary finds any infirmity in the applications for grant of building permissions, he shall communicate the same by way of a reasoned order. While processing the applications for grant of building permissions, the amounts already paid by the petitioners shall have to be adjusted and

shall not demand any fresh amount towards processing and granting of building permissions.'

Sri O.Manohar Reddy, learned counsel for the petitioners, would point out that in terms of what was stated in para 8 *supra*, the Panchayat Secretary was directed to verify the record with reference to the status of land, occupation of the land by the petitioners, establishment of dabbas, carrying on their business without permission and payments of taxes etc. It is only with regard to building permissions that certain directions were given in para 9.

It was not open to the Panchayat Secretary to brush aside the directions in para 8 of the order and take recourse to rejection of the building permissions by exercising his discretion in terms of para 9 and thereby dispossess the petitioners.

Sri K.Ramachandra Reddy, learned counsel representing Sri G.Narender Reddy, learned counsel for the contesting respondents, would fairly concede that there was no exercise undertaken in terms of what was required by para 8 of the aforestated order.

On this short ground, the writ petitions are allowed setting aside the impugned notices dated 04.12.2018 and 23.02.2019. The Panchayat Secretary Grade-I, Maheswaram Village and Mandal, is directed to undertake a comprehensive exercise in terms of paras 8 and 9 of the order dated 29.10.2018 passed in W.P.No.38137 of 2018.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

Date:13.06.2019

PGS